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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,377	06/27/2008	Roland Almeras	713-1233	1059

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LOWE HAUPTMAN HAM & BERNER, LLP  
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ALEXANDRIA, VA 22314

EXAMINER
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CHUKWURAH, NATHANIEL C

ART UNIT	PAPER NUMBER
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3721

MAIL DATE	DELIVERY MODE
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01/04/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/597,377	<b>Applicant(s)</b> ALMERAS ET AL.	
	<b>Examiner</b> NATHANIEL CHUKWURAH	<b>Art Unit</b> 3721	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 October 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2010 and 21 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-943) | Paper No.(s)/Mail Date _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This office action is in response to the amendment filed on 10/22/2010.

### **Claim Rejections - 35 USC § 103**

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamada et al. (US 2002/0027150) in view of Gantner et al. (US 6,237,747).

With regard to claim 6, Hamada discloses indirect fire device as shown in Figure 2 for fixing fasteners in a substrate material, comprising a piston (8) for driving a fastener (50) movably mounted in a barrel (4) and a plug guide (5) for guiding a fastener towards the substrate material, the device being adapted to receive a magazine (3) for receiving a strip of fasteners (50) in order to introduce the fasteners one by one into the plug guide (5), wherein the plug guide (5) includes a zone (C) having an enlarged section as shown in Figure 1 at the opening of the magazine (3) leading into the plug guide (5).

Hamada fails to show each fastener being held in a sleeve comprising shearable means for connection to another sleeve. Gantner teaches that it is old and well known in the art to provide fastener (6) in a shearable sleeve (14) for the purpose of supporting the fastener. Thus, it would have been obvious to one skilled in the art to modify Hamada's fastener by providing the fastener in a shearable sleeve for the purpose as set forth above.

With regard to claim 7, the modified invention of Hamada shows the zone having an enlarged section has a circular section (see Figs. 1 and 17).

With regard to claim 8, the modified invention of Hamada shows the sleeves (Gantner) are connected together by means of bridges (see Gantner Fig.1), the zone having an enlarged section has a diameter substantially equal to the diameter of the plug guide (5) and would be increased by the radial dimensions of a bridge.

With regard to claim 9, the modified invention of Hamada shows the zone having an enlarged section (C) extends axially over the length of a sleeve and considered increased by the stroke of the plug guide for loading the device.

With regard to claim 10, the modified invention of Hamada shows the zone (C) having an enlarged section is connected by means of a truncated portion (20) to the remainder of the bore of the plug guide.

4. Claims 11-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weibel et al. (US 6,722,551) in view of Hamada et al. (US 2002/0027150).

With regard to claim 11, Weibel discloses a device comprising: a casing (13), a piston (col. 4, line 39) moveable in the 13, a fastener guide (12) retractable rearwardly, the guide includes a front zone and a rear zone, the front zone guides the fastener forward, the device is adapted to receive a magazine (15) containing a strip comprising plurality of sleeves (17) holding fasteners (18) connected to adjacent sleeve by a shearable connection.

Weibel discloses the claimed subject matter but lacks the rear zone of the fastener guide having an enlarged cross-section greater than a cross-section of the front zone. Hamada teaches a

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nosepiece having front and rear zones, and the rear zone having enlarged (D) cross-section as shown in Fig. 1 and Fig. 17 for the purpose of correctly directing the nail (para.0039).

In view of the teaching of Hamada, it would have been obvious to one skill in the art to modify Weibel providing the fastener guide with rear zone having the enlarged cross-section for the purpose as set forth above.

With regard to claim 12, modified Weibel's enlarged cross-section of the rear zone is a circular cross-section (Hamada).

With regard to claim 13, modified Weibel's rear zone is considered to include a diameter substantially equal to a diameter of the front zone (C Hamada) plus a radial dimension of the shearable connection between adjacent sleeves.

With regard to claim 14, modified Weibel's rear zone (Hamada) extends axially of the fastener guide over a length considered of one sleeve plus a distance between the front and rear positions of the fastener guide.

With regard to claim 15, modified Weibel's fastener guide further includes a truncated portion connecting the front and rear zones (see Hamada Fig. 1).

With regard to claim 16, Weibel discloses a device comprising: a casing (13), a piston (col. 4, line 39) moveable in the 13, a fastener guide (12) retractable rearwardly, a magazine (15 Fig. 1), the guide includes a front zone and a rear zone, the front zone guides the fastener forward, the device is adapted to receive a magazine (15) containing a strip comprising plurality of sleeves (17) holding fasteners (18) connected to adjacent sleeve by a shearable connection.

Weibel discloses the claimed subject matter but lacks the rear zone of the fastener guide having an enlarged cross-section greater than a cross-section of the front zone. Hamada teaches a

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nosepiece having front and rear zones, and the rear zone having enlarged (D) cross-section as shown in Fig. 1 and Fig. 17 for the purpose of correctly directing the nail (para.0039).

In view of the teaching of Hamada, it would have been obvious to one skill in the art to modify Weibel providing the fastener guide with rear zone having the enlarged cross-section for the purpose as set forth above.

With regard to claim 17, modified Weibel's enlarged cross-section of the rear zone is a circular cross-section (Hamada).

With regard to claim 18, modified Weibel's rear zone is considered to include a diameter substantially equal to a diameter of the front zone (C Hamada) plus a radial dimension of the shearable connection between adjacent sleeves.

With regard to claim 19, modified Weibel's rear zone is considered to include a diameter substantially equal to a diameter of the front zone (C Hamada) plus a half of a radial dimension of the shearable connection between adjacent sleeves.

With regard to claim 20, modified Weibel's rear zone (Hamada) extends axially of the fastener guide over a length considered of one sleeve plus a distance between the front and rear positions of the fastener guide.

With regard to claim 21, modified Weibel's fastener guide further includes a truncated portion connecting the front and rear zones (see Hamada Fig. 1).

With regard to claim 22, modified Weibel's fastener guide further includes a truncated portion connecting the front and rear zones (see Hamada Fig. 1). While modified Weibel has not shown sleeve holding the fastener rests on the truncated portion, one having ordinary skill in the art would know to provide such feature since the sleeve holding the fastener rests on the

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truncated portion does not affect the operation of the tool. It would have been obvious to one skilled in the art to modified Weibel to include the sleeve holding the fastener to rest on the truncated portion for the purpose of supporting the sleeve and fastener.

With regard to claim 23, while modified Weibel has not expressly stated that the sleeve holding the fastener is rotatable within the rear zone without being limited, modified Weibel is considered to include sleeve holding the fastener rotatable within the rear zone without being limited.

### **Response to Arguments**

5. Applicant's arguments filed 10/22/2010 have been fully considered but they are not persuasive.

Applicant arguing on page 10, that Hamada do not fairly teach or suggest that the “plug guide includes a zone having an enlarged section at the opening of the magazine leading into the plug guide.”

The examiner contends that Hamada teaches fastener guide that shows an enlarged section at the opening of the magazine leading into the plug guide when viewed from the nosepiece as shown in Figures 1 and 17.

Although applicant may argue that the arrangement of the enlarged section of present invention is different from the Hamada, however one having ordinary skill in the art would know to locate the enlarged section along the nosepiece to be near the magazine opening.

It would have been obvious to one having ordinary skill in the art to modified Hamada to arrive at applicant's invention. The rejection is proper.

**Conclusion**

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **NATHANIEL C. CHUKWURAH** whose telephone number is (571)272-4457. The examiner can normally be reached on M-F 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nathaniel C. Chukwurah/  
Examiner, Art Unit 3721

/Rinaldi I Rada/  
Supervisory Patent Examiner, Art Unit 3721

12/28/2010